



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: J&J Maintenance, Inc.

File: B-272166

Date: July 29, 1996

Albert H. Smith, Jr. for the protester.

George N. Brezna, Esq., and Christopher M. Bellomy, Esq., Department of the Navy, for the agency.

Christine Davis, Esq. and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

A solicitation for housing maintenance services is not defective because it lacks historical workload information, where changes in the agency's requirements have undermined the value of the historical information and the solicitation includes accurate and current workload information that should permit offerors to compete intelligently and on equal terms.

DECISION

J&J Maintenance, Inc. protests the terms of request for proposals (RFP) No. N68931-96-R-9516, issued by the Department of the Navy, Naval Facilities Engineering Command, for family housing maintenance services at three Naval Air Stations (Cecil Field, Jacksonville, and Mayport) in Florida.

We deny the protest.

The RFP covers most residential maintenance at the three air stations, including structural maintenance and repair services; repair or replacement of heating, ventilation and air conditioning (HVAC) equipment and other home appliances; painting services; plumbing work; electrical work; custodial work; grounds maintenance; and change of occupancy maintenance (COM).¹ The RFP solicits prices for fixed-price and indefinite quantity contract line items (CLIN). Estimated quantities are specified for each CLIN. The contractor will be paid a fixed annual

¹The RFP defines COM work as the work necessary to make vacant houses ready for the next resident, such as cleaning chimneys or refinishing hardwood stairs. The COM definition excludes painting, custodial, and alterations work, which are to be separately priced and ordered.

price for the fixed-price CLINs, even if the government orders less than the estimated quantities; if the government requires more than the estimated quantities, it may order the additional quantities under indefinite quantity CLINs corresponding with the fixed-price requirements.

For the fixed-price CLINs, the RFP contemplates that work assignments will generally originate through service calls, which can be classified as either "emergency," "urgent," "routine," "alteration," "scheduled," or "other" calls. The RFP also provides a separate work authorization process for COM, painting, custodial, and HVAC preventive maintenance work. For the indefinite quantity CLINs, the RFP provides for the issuance of delivery orders. The wage determinations issued under the Service Contract Act, 41 U.S.C. §§ 351 - 358 (1994), apply to all contract work, except for "alteration" service calls, which are subject to Davis-Bacon Act general wage decisions, 40 U.S.C. § 276a (1994).

The RFP contains certain limitations on the contractor's liability for both the fixed-price and indefinite quantity work. For example, a service call that will consume more than 16 labor hours or \$500 in material costs is generally not required to be performed at the contractor's stated unit price. Similarly, in performing a COM assignment, the contractor is not required to correct at its stated unit price any individual deficiency that will consume more than 16 hours or \$500 in material costs, but it must correct all individual deficiencies below that threshold; the RFP notes that the total cost of a COM assignment may therefore add up to more than 16 hours or \$500 in material costs.

The RFP provides a variety of workload information. The RFP statement of work describes the specific tasks that may be required at the three installations and the manner in which the contractor must perform those tasks. Section J of the RFP provides information on the style and number of housing units; the structural characteristics of the housing units; the approximate square footage and floor plans of the housing units; and information specific to the painting and HVAC maintenance requirements. The Navy also afforded offerors site visits.²

J&J protests that the information contained in the RFP is inadequate for pricing purposes without undue risk to the offeror. J&J concedes that the RFP contains a "copious amount of valuable workload data" and does not challenge the accuracy of the workload information and estimates contained in the RFP. However, the protester argues that the RFP "did not go far enough in providing key workload data elements [with regard to the government's historical requirements at the three installations] which are required by all offerors to base a reasonable bid on." For example, J&J argues that the RFP should provide a breakdown of service calls by

²Ten firms ultimately submitted proposals by the proposal due date.

craft, such as plumbing service calls or electrical service calls. J&J claims that offerors can not reasonably price the contract work if they do not know the labor mix of service calls, since wage rates depend upon the labor category involved and the applicability of either the lower Davis-Bacon Act wages or the higher Service Contract Act wages.

The agency responds that the historical information requested by J&J would actually misguide offerors because the government's requirements have significantly changed at the three installations. The Navy has given several examples of how its requirements have changed, including the occurrence of major home renovations at the Jacksonville air station and the recent installation of new appliances and HVAC units in numerous homes at the Mayport and Cecil Field air stations, which should reduce the number of service calls. The Navy states that these and other changes render the historical data misleading and that the estimated quantities contained in the RFP, which reflect the changed requirements, provide the best and most accurate basis for the preparation of price proposals.

A procuring agency must provide sufficient information in a solicitation to enable offerors to compete intelligently and on a relatively equal basis. State Management Servs., Inc., B-251715, May 3, 1993, 93-1 CPD ¶ 355; Mark Dunning Indus., Inc., B-243757, Aug. 22, 1991, 91-2 CPD ¶ 187. There is no requirement, however, that an RFP eliminate all performance uncertainties and risks. Id. In this regard, offers for service contracts, by their very nature, often require the computation of prices based on visual inspections, and the presence of some element of risk does not mean that fair competition is precluded or that a solicitation is improper. Ronald E. Borello, B-232609, Jan. 11, 1989, 89-1 CPD ¶ 28. It is within an agency's discretion to construct a solicitation so that the resulting contract imposes substantial risk upon the contractor and minimum administrative burden on the agency. Bean Dredging Corp., B-239952, Oct. 12, 1990, 90-2 CPD ¶ 286.

Based on our review, we cannot say that the agency erred in excluding the historical data from the RFP, since the record reflects that significant changes in the agency's requirements have undermined the value of that data. In our view, the RFP reasonably describes the work to be performed and provides offerors with sufficient information to compete intelligently, particularly considering that offerors received an opportunity for a site visit. See International Resources Corp., B-248050.3, Feb. 16, 1993, 93-1 CPD ¶ 138; A&C Bldg. and Indus. Maintenance Corp., B-230270, May 12, 1988, 88-1 CPD ¶ 451. We find no duty in this case for the agency to provide the additional historical information requested by J&J regarding the number of service calls by craft. In this regard, we note that the RFP limits the contractor's risk by segregating "alteration" service calls, which are subject to the lower Davis-Bacon Act wages, from the remaining contract work, which is subject to the higher Service Contract Act wages.

J&J also argues that offerors should receive a breakdown of repairs performed under prior COM assignments at each air station, so that offerors can determine a lump-sum COM price that accounts for all individual repairs likely to fall within the COM threshold. We disagree. The Navy has attempted to reduce the contractor's risk by placing labor hour and dollar limits on COM repairs. Although the contractor must repair any individual deficiency falling below the COM threshold, we see no reason why an offeror could not use its business acumen and the site visit to estimate the likelihood of repeated below-threshold repairs. While J&J may desire more certainty, we believe that the exclusion of high-cost repairs from the contractor's lump-sum COM price strikes an appropriate compromise between reducing the agency's burden and limiting risk to the contractor. See State Management Servs., Inc., supra.

The protest is denied.

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